

Case No. 18027.Q, Post-employment

[date]

Former City employee JJ

Dear JJ,

A question about your application to serve as a volunteer [for a City department, D] was brought to our office's attention. Because of your former employment as [title with this department], which ended on [date], I regret to inform you that, under the post-employment provisions of the City's Governmental Ethics Ordinance, you are ineligible to volunteer at [D] for one full calendar year after your last day of City service, or until [date + 1 year]. This is pursuant to §2-156-100(b) of the Ordinance, which provides:

2-156-100. Post-employment restrictions on assistance and representation.

(b) No former official or employee shall, for a period of one year after the termination of the official's or employee's term of office or employment, assist or represent any person in any business transaction involving the city or any of its agencies, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of office or employment; provided, that if the official or employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract. [emphasis added]

Should you have any questions or concerns, please contact me, or Richard Superfine, our Legal Counsel here, at 312-744-9660.

Sincerely,

Steven I. Berlin
Executive Director

By way of further explanation, sent to JJ in an email a few days after the above letter, we wrote:

“Our interpretation is actually straightforward: no former employee can assist any person – including themselves – in any “business transaction” involving the City for one year after leaving City service if they participated personally and substantially in the subject matter of that transaction. It makes no difference whether that assistance would be provided *gratis*, or for hundreds of dollars an hour. As to Board precedent, we advised a different department a few years ago that one of its retiring employees was prohibited from assisting it in a project on which he had worked, even as a volunteer, *unless* the department itself wished to enter into an independent services contract with him [see a few paragraphs below]. In other words, he had no “right” to volunteer – it would be up to the department to complete the paperwork and show that it needed his services, then get it approved by Budget, Mayor’s Office, and Law. Analogously, you – or any former City employee or official -- have no “right” to volunteer during your one-year prohibition period, and it makes no difference whether it would be paid work or volunteering.

“Moreover, our Board has long interpreted the term “business transaction” to mean “the business of the department,” not narrowly, as covering only City contracts or transactions where money changes hands for goods or services.

“We have not covered the volunteer post-employment situation in our ethics training, because, frankly, it hardly ever arises. Your question and the one I mention above are the only ones I recall in 25 years working here. However, in our ethics training, we *have* regularly addressed situations in which a City employee leaves and his or her former department desires to have the individual come back and complete a project. The way that must work is that this could happen if and only if: i) the department seeks the services of its former employee; ii) there is a written contract containing language obligating the former employee to owe his or her sole fiduciary duty to the City and not to any third party; and iii) the arrangement is approved by the department and the other City offices listed in the second paragraph above.”